



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 6581-99
23 November 1999

CAPT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Captain [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 21 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6581-99

IN REPLY REFER TO:
1610

MMER/PERB

OCT 21 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 26 Jul 99
(b) MCO P1610.7C w/Ch 1-5
(c) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 October 1999 to consider Captain [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 910801 to 920131 (SA) -- Reference (b) applies
- b. Report B - 920201 to 920626 (CH) -- Reference (c) applies

2. The petitioner contends that both reports are adverse by nature of their respective Section C comments. As such, he believes the reports should have been processed as such per the provisions of Chapter 5 of references (b) and (c).

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Neither of the challenged reports is adverse. The respective markings in Section B are consistent with and complement the narrative comments. Accordingly, there was no requirement to refer either report to the petitioner for his acknowledgment and rebuttal. The reports at issue are the second and third in a succession of three reports by the same Reporting Senior; both are consistent with the initial appraisal which the petitioner has elected not to challenge.

b. The comments identified by the petitioner as being adverse merely portray the learning curve normally experienced by a junior officer. While references (b) and (c) discourage comments referencing minor imperfections, the inclusion of these comments do not arbitrarily invalidate the reports under consideration. Taken in their total context, the markings in Sections B on both reports are excellent-to-outstanding and the

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] USMC

preponderance of each Section C narrative is commendatory in nature, noting specific strong points such as MOS proficiency and managerial and communication skills.

c. It is the conclusion of the Board that Reports A and B constitute objective, legitimate appraisals of performance during finite periods of time. The petitioner offers no evidence of inaccuracy or injustice.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Captain [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps